

REMARKS

Applicants amend claim 30 to remove the language that the catch device is “of preferably funnel-shaped configuration,” and add a new claim 55, which depends from claim 30 and recites that the catch device of claim 30 is “of funnel-shaped configuration.” Support for the amendment can be found throughout the specification and in the claims as filed. Upon entry of the amendments, claims 30-55 are pending.

Reconsideration of the application in view of the amendments and the following remarks is respectfully requested.

I. Rejection under 35 U.S.C. § 112

Claims 30-54 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner alleges that it is not clear whether the catch device in these claims has a funnel-shaped configuration.

Applicants have currently amended claim 30 to remove the language “of preferably funnel-shaped configuration,” and added a new claim 55, which depends from claim 30 and affirmatively recites that the catch device of claim 30 is “of funnel-shaped configuration.” Withdrawal of the rejection is respectfully requested.

II. The Claims Are Not Anticipated

Claims 30, 32, 37, 38, 41, 43, 44, and 46-51 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 2,082,419 to Rietz (“Rietz”). The Examiner alleges that Rietz meets each of the elements of the claimed invention (see Office Action, page 3).

Applicants respectfully traverse. Claim 30 as amended is directed to a comminution device that is “characterized in that, in the circumferential wall of the comminution chamber an opening adjacent to the bottom wall and openable and closable at will is provided, which can be used as an additional discharge opening.” Further, claim 30 also includes the following features:

- at least a portion of the circumferential wall of the comminution chamber is configured as a grating,
- the grating is surrounded by an outer jacket, and
- at the lower of which a catch device is provided for comminuted material.

From the above, it is clear that there are also openings in the bottom wall extending orthogonally to the drive shaft of the comminuting device according to the invention, the openings allowing the comminuted material which has been passed through the grating in the circumferential wall and stopped by the outer jacket, to exit the collecting space between the grating and the outer jacket in a downward direction.

Rietz does not disclose or suggest a comminution device including the feature “in the circumferential wall of the comminution chamber an opening adjacent to the bottom wall” as the Examiner alleges. Rather, the so-called “opening” in Rietz resulting from the removal of a cover plate 33 is located in the outer jacket of the comminuting device, and not in the circumferential wall of the comminution chamber, as required in claim 30. It is important that the opening in claim 30 leads directly to the comminution chamber surrounded by the circumferential wall and not to a collecting space for comminuted material. This configuration allows the opening to be used as an additional discharge opening. In contrast,

Rietz states on page 2, right column, lines 39-42: “The function of these plates is to form a closure for a jacket and to permit access to the screws 26 when it is desirable to change the grading screens 23.” Therefore, the “opening” noted by the Examiner in Rietz does not represent an opening that is “openable and closable at will, which can be used as an additional discharge opening,” as required in claim 30.

Applicants also note that Rietz also discloses another type of opening, as described in page 2, right column, lines 42-45: “A plurality of openings 36 are provided venting into the jacket 3, through which part of the disintegrated material may be discharged.” However, these openings are provided in the bottom wall of the comminuting device, and are always open. Therefore, they do not correspond to an opening in the circumferential wall of the comminution chamber which is openable and closable at will, as recited in claim 30.

Accordingly, Applicants submit that at least for these reasons, claim 30 is not anticipated by Rietz, without conceding the Examiner’s position that Rietz allegedly discloses other features of claim 30.

As claims 32, 37, 38, 41, 43, 44, and 46-51 all depend from claim 30, they are not anticipated by Rietz for at least the reasons presented above. Accordingly, Applicants respectfully request that the rejection of claims 30, 32, 37, 38, 41, 43, 44, and 46-51 under 35 U.S.C. § 102(b) be withdrawn.

III. The Claims Are Not Obvious

Claims 31, 42, and 53 are rejected under 35 U.S.C. § 103(a) as unpatentable over Rietz; claims 33-36 are rejected under 35 U.S.C. § 103(a) as unpatentable over Rietz in view of GB 1572330; claims 38, 45, 52, and 54 are rejected under 35 U.S.C. § 103(a) as

unpatentable over Rietz in view of RU 2072262; claim 40 is rejected under 35 U.S.C. § 103(a) as unpatentable over Rietz in view of U.S. Patent No. 4,637,561 (to Edberg). See pages 4-5 of the Office Action.

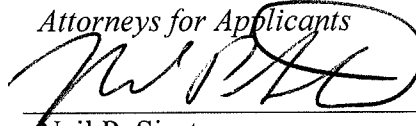
Applicants respectfully traverse these rejections. The asserted combination of prior art references must teach or suggest each and every claim feature. See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (to establish prima facie obviousness of a claimed invention, all the claim features must be taught or suggested by the prior art). Applicants refer to the arguments with respect to the rejection of claim 30 under 35 U.S.C. § 102(b) (as presented in Section II of this response), and submit that at least the feature “in the circumferential wall of the comminution chamber an opening adjacent to the bottom wall and openable and closable at will is provided, which can be used as an additional discharge opening,” which is present in all of the claims rejected under 35 U.S.C. § 103(a) as they depend from claim 30, is not disclosed or suggested either in Rietz or in the other references cited in the obviousness rejections, i.e., GB 1572330, RU 2072262, or Edberg. Accordingly, at least for this reason, these claims are not obvious over the cited references. Withdrawal of all the rejections under 35 U.S.C. § 103(a) is respectfully requested.

IV. Conclusion

On the basis of the foregoing amendments and remarks, Applicants respectfully submit that the pending claims of the present application are allowable over the cited references. In the event that the application is not deemed in condition for allowance, the Examiner is invited to contact the undersigned in an effort to advance the prosecution of this application.

Respectfully submitted,

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